

Path 15 Upgrade Project Participant's Letter Agreement

**TRANS-ELECT, INC., PACIFIC GAS AND ELECTRIC COMPANY
AND
WESTERN AREA POWER ADMINISTRATION:**

**PATH 15 UPGRADE PROJECT PARTICIPANT'S
LETTER AGREEMENT**

**EXECUTED:
April 25, 2002**

FILED WITH THE FEDERAL ENERGY REGULATORY COMMISSION

Letter Agreement

Path 15 Project

April 25, 2002

Recitals

This Letter Agreement (LA) is made this 25th Day of April 2002, pursuant to the Acts of Congress approved June 17, 1902 (32 Stat. 388), March 4, 1921 (41 Stat. 1404); January 12, 1927 (44 Stat. 957), August 4, 1977 (91 Stat. 565), July 16, 1984 (98 Stat. 403, 416), August 15, 1985 (99 Stat. 293, 321), as amended or supplemented. This LA is between the United States of America, acting by and through the Western Area Power Administration (Western), Pacific Gas and Electric Company (PG&E), and Trans-Elect, Inc. (Trans-Elect).

Whereas, the Path 15 Project will promote reliability, enhance power transfer capability between northern and southern California, and promote a more competitive electrical market in the West;

Whereas, the National Energy Policy Report, announced on May 17, 2001, recommended that the President direct the Secretary of Energy to authorize the Administrator of Western to explore relieving the Path 15 bottleneck through transmission expansion;

Whereas, the Secretary of Energy directed the Administrator of Western to complete its planning to relieve Path 15 constraints, and determine whether outside Parties are interested in helping finance and co-own the necessary system additions, including transmission lines;

Whereas, the Path 15 Project is expected to consist of: constructing a new 84-mile, 500-kilovolt (kV) transmission line between the PG&E's Los Banos and Gates

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1 substations in Central California; terminal work at both substations; and certain 230-kV
2 system reinforcements;

3
4 **Whereas**, the estimated cost of the Project is \$306 million, with an estimated in-service
5 date of late 2004;

6
7 **Whereas**, the upgrade to Path 15 has been found to be technically feasible;

8
9 **Whereas**, Western, as tasked by the Secretary of Energy, has performed National
10 Environmental Policy Act work related to the project and is serving as the overall Project
11 Manager through energization to ensure the project is constructed;

12
13 **Whereas**, at the direction of the Secretary of Energy, Western issued a *Federal*
14 *Register* notice on June 13, 2001, and began an open and public process seeking
15 statements of interest from any outside Parties to help finance and co-own a
16 transmission upgrade of Path 15;

17
18 **Whereas**, as a result of a open and public process, the following entities have a role in
19 or are participating in the Project:

20 Trans-Elect, Inc.;

21 Pacific Gas & Electric Company; and

22 Western Area Power Administration.
23

24 **Whereas**, the above named Parties executed a Memorandum of Understanding dated
25 October 16, 2001;

26
27 **Whereas**, the October 16 Memorandum of Understanding required the Participants to
28 develop a Project ownership model that defines the rights of the Participants and the
29 Participants have determined that this model should be submitted to the Federal Energy
30 Regulatory Commission for approval;

31
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1 **Therefore it is hereby agreed** that the above-named Participants enter into this LA,
2 thereby fulfilling certain requirements of the October 16, 2001 MOU and representing
3 their intent to continue to participate in the Project and their commitment to jointly
4 develop additional contractual documents that will address responsibilities, financial
5 contributions, ownership rights, and operational details of the Project.

6
7 **Agreement**
8

9 1. **General Terms:**

10 1.1. Submittal to Secretary of Energy: Western is proceeding with Project work
11 contingent upon the Secretary of Energy's approval. Accordingly, once
12 completed, this LA shall be submitted to the Secretary or his authorized
13 designee for final review.

14 1.2. Participation Costs: Unless agreed to in writing, each Participant shall
15 bear its own costs of participation in the effort to develop additional
16 agreements necessary to move the project forward. Western's
17 participation and obligations are contingent upon contributed funding by
18 Participants, appropriations, and other applicable Federal laws,
19 regulations and policies.

20 1.3. Governing Law: This LA and any definitive agreements shall be governed
21 by and construed in accordance with the laws of the United States of
22 America, without giving effect to principles of conflicts of law.

23 1.4. Assignment: The rights under the LA may be assigned with Western's
24 consent, which consent will not be unreasonably withheld. The United
25 States Congress may Assign the rights of the United States without the
26 consent of any Party. PG&E may Assign this LA to any company that may
27 be formed pursuant to PG&E's Plan of Reorganization confirmed by the
28 Bankruptcy Court, without the Parties' prior approval or written consent,
29 provided, that PG&E remains obligated to pay for goods purchased or
30 services rendered up to the effective date of such assignment. PG&E and
31 Trans-Elect may Assign to such Parties' corporate affiliate in which such

1 Party holds a majority interest or to any Party provided that: (i) the Party
2 and the assignee remain obligated under this LA; (ii) the assignee is
3 creditworthy; (iii) and the assignment otherwise meets the requirements of
4 41 U.S.C. § 15, as defined in Section 42.1204 of the Federal Acquisition
5 Regulations (2001). Subject to the foregoing, this LA shall be binding
6 upon and inure to the benefit of the successors and assigns of the Parties
7 hereto.

8 1.5. Filing with FERC: This agreement shall be filed with the Federal Energy
9 Regulatory Commission. In the event the Commission does not accept
10 this LA for filing in its entirety, makes modifications or the Commission
11 does not approve the rate treatments stated in Section 7 of this LA, the
12 Parties will negotiate in good faith to make necessary changes to preserve
13 to the extent practical the original intent of the Parties and to restore the
14 balance of burdens and benefits. In the event a Party cannot agree on
15 making the necessary changes or the Commission does not approve the
16 rate treatments contained in the LA and described in the filing letter, that
17 Party may withdraw or may be removed as provided for in this LA.
18

19 **2. Definitions:**

20 Whenever used in this Agreement, the following terms, when initially capitalized,
21 shall have the following meanings. The singular of any definition shall include
22 the plural and the plural shall include the singular.

23 2.1. Assignment or Assign: Any transfer of rights, title, interests, and
24 obligations under this Agreement pertaining to all or any portion of a
25 Participant's share of the Project.

26 2.2. CAISO: The California Independent System Operator or its successor.

27 2.3. Entitlement: A Participant's right to use a portion of the Rated Path 15
28 Upgrade transfer capability, expressed as a percent (%).

29 2.4. Escrow Account: An escrow account established by Trans-Elect to receive
30 equity and debt for the Path 15 Project. Funds will be transferred from the
31 Escrow Account to the Trust Account for distribution to pay Project costs.

1 2.5. Participants or Party: Each of Pacific Gas & Electric Company, Trans-
2 Elect and Western Area Power Administration; and each of their
3 successors and assigns.

4 2.6. Initial Project Work: Project Work that is accomplished using the Initial
5 Funding provided under Section 6.4 of this agreement. It includes but is
6 not limited to design work, material acquisition, additional environmental
7 work, and Land acquisition necessary for the construction of the Los
8 Banos-Gates 500-kV Transmission Line, the 230-kV reinforcements and
9 associated facilities.

10 2.7. Construction Work: Project work including but not limited to design work,
11 material acquisition, substation modification work, additional
12 environmental work, Land acquisition, construction and any other work
13 necessary for the construction of the Los Banos-Gates 500-kV
14 Transmission Line, the 230-kV reinforcements and associated facilities.

15 2.8. FERC or Commission: The Federal Energy Regulatory Commission or its
16 successor.

17 2.9. Land: The land upon which the Transmission Line is constructed.

18 2.10. NERC: North American Electric Reliability Council or its successor.

19 2.11. Project: The Path 15 Upgrade Project, a 500-kV Transmission Line which
20 extends between PG&E's Los Banos Substation and PG&E's Gates
21 Substations and associated substation modifications including 230-kV
22 reinforcements.

23 2.12. Project Manager: That entity responsible for managing the activities of the
24 Project.

25 2.13. Secretary or Secretary of Energy: The Secretary of the United States
26 Department of Energy or his authorized representative or successor.

27 2.14. Transmission Line: The physical 500-kv Los Banos-Gates transmission
28 line and structures.

29 2.15. Transmission System Right (TSR): TSR is an exclusive transmission
30 entitlement on the Project Upgrade portion of the Path 15 (Los Banos to
31 Gates) transmission path in an amount equal to the incremental increase

in the Path 15 (Los Banos to Gates) transmission capability resulting from the Project. The holder of the TSR is entitled to all associated rights, including Firm Transmission Rights (and the revenue derived therefrom) as the term is used by the CAISO Tariff and Protocols. The use of this definition does not limit the Parties in seeking any additional revenues or rights that are authorized by FERC due to a beneficial increase in the CAISO controlled grid capacity resulting from the Path 15 Upgrades.

2.16. Trust Account: A non-interest bearing account established in the United States Treasury by Western, for the Participants, containing funds, prior to obligation of funds by Western, which are immediately available for Project work performed by Western, as provided under this LA.

2.17. WSCC: The Western System Coordinating Council or its successor.

3. Ownership

3.1. Physical ownership:

3.1.1. Western will own the Transmission Line and the Land;

3.1.2. PG&E will own the modifications to its substations and the 230 kV reinforcements (the "Substation");

3.1.3. As described in Section 6, Trans-Elect will provide funding for the development of the Transmission Line and the Land acquisition. Trans-Elect will have Transmission System Rights on Path 15 as more fully described in Section 3.2.

3.2. Entitlement in the Project: As a result of their contribution to the Project each entity will receive an allocation of Entitlement and the associated Transmission System Rights in the Project.

3.2.1. The Initial Allocation: The initial allocations are identified in Exhibit

A. PG&E's Initial Allocation is based on the ratio of the estimated costs for PG&E's Substation modifications to the entire Project cost. Trans-Elect's Initial Allocation is based on the ratio of the estimated funds it will provide for the Transmission Line to the entire Project. Western's Initial Allocation is based on the ratio of

1 all other estimated costs including Land, its role in initiating the
2 public/private partnership development, ownership of the Project
3 and the benefits that Western provides to the entire Project. As
4 described in Section 6, Trans-Elect may provide funds for the
5 acquisition of Land.

6 3.2.2. Final Allocation: The final allocations will be determined based on
7 the ratio of the contribution made by a Participant to the Project
8 either in terms of funding or actual work performed. In no event will
9 Western's share be less than 10%.

10 3.2.2.1. In the event Congress appropriates to Western additional
11 funding that exceeds the cost of the Land for this Project, a
12 corresponding change will be made to the Final Allocation.
13 This change will be calculated on a ratio of the amount
14 appropriated in excess of the cost of the Land to the entire
15 Project costs. This will be added to Western's Final
16 Allocation. Corresponding changes will be made to Trans-
17 Elect's Final Allocation.

18 3.2.2.2. In the event that the above-described Congressional
19 appropriation displaces existing funds that Trans-Elect has
20 provided under the Contributed Funds to Western and such
21 Contributed Funds have been deposited into the federal
22 Trust Account prior to the Congressional appropriation such
23 Contributed Funds shall be returned to Trans-Elect. In
24 addition, for these displaced funds, Trans-Elect's Final
25 Allocation will be credited for generally accepted origination
26 and due diligence costs or actual costs (whichever is lower)
27 and interest as provided under Rule 35.19 of FERC Rules
28 and Regulations. This credit for origination and due
29 diligence costs will be subtracted (as a ratio of the credit
30 over the entire Project costs) from Western's Final
31 Allocation.

4. **Project Management:**

4.1. Project Manager: Western, as designated by the Secretary of Energy, will serve as the overall Project Manager. During the construction of the Project, Western will act as the Project Manager and provide services for managing the day-to-day activities of the Project. Western will oversee the Participants' activities to assure schedules and budgets are met; and that the Participants cooperate to move the Project forward. Western will serve in this role until Commercial Operation. Effective on the date of Commercial Operation, management of the Project will be governed by the Management Committee.

4.2. Western's Role as Project Manager: Western will ensure that the necessary negotiated Project agreements are executed; that the Participants actively participate in the process; and that the Participants cooperate to move the Project forward. Western will also perform lead Federal Agency efforts for the National Environmental Policy Act process, will acquire necessary Land rights for the Project, as well as other functions necessary for the completion of the Project, and will retain at least 10% of the TSRs in the Project.

4.3. Substation Project Management: PG&E will have full responsibility for all aspects of the development of the substations. It has the responsibility to co-ordinate with the Project Manager to complete the substations in accordance with the completion of the Transmission Line.

4.4. Transmission Line Construction Committee. As described in Section 8, a Transmission Line Construction Committee will be formed for the Construction Phase of the Project. The Transmission Line Construction duties will include the development of all bid specifications. Western and Trans-Elect will have an equal role in the Transmission Line Construction Committee. Trans-Elect will serve as chair of the Transmission Line Construction Committee. Trans-Elect will establish an Escrow Account and have responsibility for managing the outflow of funds from the Escrow

Account and making such funds available on a timely basis. The Transmission Line Construction Committee will operate on a required consensus basis, i.e., both Trans-Elect and Western must agree on the decisions.

5. **Project Definition and Scope:**

5.1. Project Capabilities: The Project is expected to have an incremental rating of 1,500 megawatts (MW) in the South-to-North direction, creating a Path 15 combined system rating of 5400 MW, as determined by WSCC. The Participants have yet to determine the incremental increase in the North-to-South Path 15 transfer capability made possible by the Project. The existing system North-to-South Path 15 transfer capability shall be evaluated in order to determine the incremental North-to-South Path 15 transfer capability. All ratings shall be consistent with WSCC standards and shall be confirmed by the appropriate organization. PG&E has completed the WSCC Regional Planning Process on January 18, 2002. PG&E will continue to lead the Participants' activities before the WSCC.

5.2. Project Scope: The total scope of the Project shall be divided into Initial Project Work phase and Construction Work phase, both of which will ultimately lead to the construction and energization of the Los Banos-Gates 500-kV Transmission Line and associated Substation modifications and 230-kV reinforcements for the relief of the existing Path 15 bottleneck. The final scope and design of the Project will be determined through negotiations among the Participants and their evaluation of related power system studies.

5.3. Initial Project Work: Provides for design work, material and equipment acquisition, additional environmental work, and Land acquisitions as funded under this LA.

5.4. Construction Work: Shall be accomplished under a future participation agreement ("Participation Agreement") and shall provide the necessary

funding and resources to complete the Project, including but not limited to the following:

5.4.1. Additional design work not accomplished under Phase I.

5.4.2. Modifications to existing Los Banos and Gates Substations to accommodate the new 500-kV Transmission Line.

5.4.3. Modifications to PG&E's 230-kV system

5.4.4. Additional Communication Facilities.

5.4.5. Construction of a new 84-mile Los Banos-Gates 500-kV Transmission Line.

5.4.6. Construction of necessary system improvements.

5.4.7. Implementing a coordinated operating & interconnection agreement.

5.4.8. Making the necessary Remedial Action Scheme changes.

5.4.9. Any other necessary work to construct the Project and enter it into Commercial Operation.

5.5. Operations: The Project operation will be coordinated with the existing transmission system and operated in accordance with prudent utility practice as a transmission facility within the CAISO's control area, its successor, or the control area certified by NERC. Scheduling shall be performed in accordance with the appropriate control area scheduling procedures and standards consistent with the NERC, and/or business practices and procedures adopted in standard market designs of FERC-certified Regional Transmission Organizations.

5.6. Operation of Project: Operation of the Project shall be in accordance with the Path 15 Upgrade Coordinated Operating and Interconnection Agreement (COIA) and the Participation Agreement to be negotiated among the Parties and any additional agreements that may be necessary.

5.7. Project Transmission Rights: The incremental transmission capability made available by this Project shall be utilized in a manner consistent with FERC regulations. All unused Project transmission capacity shall be

made available in a timely manner on a non-discriminatory basis, consistent with FERC regulations. PG&E and Trans-Elect will turn over the operational control of their Entitlements in the Project to the CAISO. For the Entitlement funded under the Contributed Funds Act, Western will turn the operational control over to the CAISO provided that the CAISO makes the necessary changes to the CAISO Tariff, operational or other types of agreements that will allow Western to turn over the operational control of such Entitlement. In the event the CAISO refuses to execute the necessary agreements, Trans-Elect and Western will make a joint emergency filing with FERC requesting an order that requires the CAISO to accept such Entitlement. Nothing in the LA requires Western to turn over operational control of any other facilities to the CAISO.

5.8. Regional Transmission Organization ("RTO"): In the event FERC approves an RTO that encompasses the geographic confines of Path 15, the Participants commit to turn over the operational control of the Project to the RTO under agreed with terms and conditions negotiated between the Participants and the RTO.

5.9. Environmental work: Western will represent the Project for the National Environmental Policy Act (NEPA) purposes. Western issued a Record of Decision on December 20, 2001.

6. Project Costs

6.1. Cost Sharing: Trans-Elect agrees to pay the Transmission Line construction, replacement and maintenance costs. PG&E will be responsible for the construction, replacement and maintenance costs of modifications necessary to its Substations and its existing 230-kV transmission system as required. Western will acquire, at its own or at Trans-Elect's expense, all the Land rights. Western will own the Transmission Line and the Land. Western's obligations are contingent on either appropriations from Congress or advance funds provided by Trans-Elect. In the event Congress does not appropriate sufficient funds, Trans-

1 Elect will advance funds to Western pursuant to the Contributed Funds Act
2 as more fully described in Exhibit D. Where funding provided by Trans-
3 Elect to Western, Western assumes no financial risks and Trans-Elect
4 assumes full financial risks.

5 6.2. Total Project Costs: Estimated to be \$306,000,000; see Cost Estimates
6 attached hereto as Exhibit C. Total Project Cost includes reimbursement
7 of certain previous expenses incurred by PG&E and Western on behalf of
8 Parties for Project work subject to approval by the Participants. No other
9 expenses of a Party will be reimbursed by the Project unless agreed to by
10 the Participants.

11 6.3. Project Costs: Exhibit B describes the estimate of each Participants'
12 project costs, including the previously incurred expenses which are
13 proposed for reimbursement as described in Sections 6.2 and 11.1.

14 6.4. Initial Funding: The initial funds shall be \$1,500,000, to be paid by Trans-
15 Elect. The Initial Funding will be paid into the Trust Account by May 15,
16 2002. The Participants understand that Western will allocate and obligate
17 the Initial Funds for Project expenses once such funds are deposited into
18 the Trust Account. Should any Participant withdraw or be removed from
19 the Project as provided below that Participant's share of the Initial Funding
20 will not be refunded if the Project continues.

21 22 **7. Rate Making**

23 7.1. The rates, terms and conditions set by Trans-Elect and PG&E are subject
24 to regulation by FERC. Transmission revenue requirements and rates
25 charged will be just and reasonable, consistent with the public interest, or
26 established under existing law. All the Parties are in support of the
27 ratemaking outlined below and seek FERC approval of these ratemaking
28 principles as part of the approval of this LA.

29 7.2. Trans-Elect's rates will be based on the following:

30 7.2.1. A 50/50 debt/equity target capital structure, 13.5% rate of return on
31 equity. Trans-Elect will establish a fixed revenue requirement and a

rate moratorium for 36 months following the effective date of the rates. The revenue requirement will be recoverable from the CAISO.

7.3. PG&E rates will be based on the following:

7.3.1. Full recovery of all of its reasonably incurred Project Costs

including Operation, Maintenance, Administrative and General, Common costs, Depreciation, Return and Taxes that result directly from, or are reasonably allocated to, PG&E's Project construction and ongoing ownership costs of the Path 15 facilities owned by PG&E and modified or reinforced under arrangements with the Participants.

7.3.2. PG&E's Projects Costs will be fully recovered as part of Electric Transmission Network rates pursuant to PG&E's TO Tariff or its successor. The Project costs will be fully rolled into network rates and recoverable from all Parties who take service under PG&E's TO Tariff, its successor, or any other FERC authorized mechanism related to network service. PG&E will file a comprehensive TO request for the specifics of cost recovery according to the rate provision set forth by PG&E in this Section 7.3.

7.3.3. FERC will allow PG&E to earn a reasonable rate of return on all Path 15 Project facilities it owns, plus a 200 basis point incentive for reasons set forth in FERC's Western Supply Order (EL01-47-000) and as described in the Filing Letter accompanying this LA.

7.3.4. FERC will allow PG&E to recover, in rates, depreciation expenses for PG&E's Path 15 Project facilities it owns based on a 10 year useful life for reasons similar to those put forward in FERC's Western Supply Order.

7.3.5. FERC will allow a reasonable industry target capital structure as requested by PG&E or E-Trans in the subsequent TO Tariff rate filing.

1 7.4. Western is not subject to Section 205 of the Federal Power Act and will
2 set its rates and recover its revenue pursuant to its regulatory authority.
3 Pursuant to the Department of Energy Delegation Order, Western will
4 submit its rates to the Commission for confirmation and approval.
5

6 **8. Governance**

7 8.1. Establishment of committees: As a means of securing effective
8 managerial and policy direction, cooperation and interchange of
9 information, and of providing consultation on a prompt and orderly basis
10 among the Participants in connection with the various matters which may
11 arise from time to time, a Management Committee (comprised of all the
12 Participants) and Transmission Line Construction Committee (comprised
13 of Trans-Elect and Western) shall be established for the Construction
14 Work phase of the Project. The specific details and duties of the
15 Management Committee and the Transmission Line Construction
16 Committee will be discussed in the initial discussion on the Participation
17 Agreement. The final Participation Agreement will include the specific
18 details and duties of these committees.
19

20 **9. Subsequent Agreements:**

21 9.1. Nature of Subsequent Agreements: Following the assessment of the
22 Project viability and the response of FERC to this LA, those Participants
23 that wish to proceed shall enter into one or more agreements that provide
24 for funding and construction of the Project. Such subsequent agreements
25 shall incorporate the intent of this LA, except as may be agreed by the
26 Parties to such subsequent agreements or as needed to incorporate the
27 input of agency review. Such subsequent agreements shall provide more
28 detail on the governance, ownership percentages, coordinated operations
29 including curtailment sharing with the existing PG&E transmission system,
30 Project work products and Project scope, and the nature of the ownership
31 rights and responsibilities, including payments for Project costs,
32 coordination with CAISO and the mitigation of adverse impacts due to

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subsequent system modifications. In order to ensure subsequent agreements are in keeping with the Secretary of Energy's directive and the Project intent, subsequent agreements are subject to approval by Western as Project Manager.

9.2. Timelines: The Parties expect to sign a Participation Agreement no later than May 15, 2002 or 10 days after a FERC decision on the LA (whichever occurs later). The Project is expected to achieve Commercial Operation in late 2004.

9.3. No Cost Sharing: Each Participant will cover its own labor, travel, and other costs associated with these efforts under this LA.

9.4. Conditions for Further Participation: The threshold conditions for further participation of some or all Parties before signing a definitive agreement or providing additional funding for the Project are:

9.4.1. A FERC order accepting this LA and approving the requested ratemaking principles set forth by the Participants in Section 7 above;

9.4.2. Lender approval/financing for individual Parties;

9.4.3. A letter from the CAISO indicating that they will allow Trans-Elect to execute a Transmission Control Agreement.

9.4.4. CAISO board approval indicating support for all changes to the CAISO's Tariff or an order by the Commission requiring the CAISO to accept the changes requested by Trans-Elect for the revenue recovery mechanism for the Project.

9.5. If Participants do not participate in the formulation of the necessary agreements or execute the agreements in a timely manner, Western as the Project Manager may remove that entity from the Project.

10. Removal and Withdrawal

10.1. Removal of a Party: Western, at its sole discretion may remove any entity from further participation in the Project: (a) if a Participant fails to execute the Participation Agreement within 30 days after the last Condition to

Participate occurs; or (b) if a Participant fails to execute the Participation Agreement by September 30, 2002. Whichever date occurs first provides Western with the sole right to remove:

10.2. Withdrawal of Party: Until the execution of the subsequent agreements discussed above, a Party may withdraw by providing 7 day written notice to all Parties. Withdrawal after the execution of the subsequent agreements will be more fully discussed in those agreements.

10.3. Consequences of Withdrawal or Removal of Party: If a Party desires to withdraw or is removed from the Project before the commencement of construction because of the nonoccurrence of a condition to participation or for any other reason, that Party will give written notice to all Parties of its intent to withdraw. Such Party's rights and obligations (including transmission rights and costs) will be re-allocated at Western's sole discretion. However in no event will it be allocated to PG&E without its consent. Any unallocated funds contributed by a withdrawing or removed Party will be forfeited. The removed or withdrawing Party will have no rights, title or interests in the Project but such Party shall not be held responsible for any damages (whether direct or consequential) related to the Party's withdrawal. Construction will be deemed to have commenced at the time construction contracts are signed with the general contractor or materials are procured to build the Project.

10.4. Should PG&E withdraw or be removed from the Project, the Parties agree that, to the extent the Project proceeds, PG&E's Substation work shall continue as prescribed in PG&E's Commission filed tariffs governing such work. Each Party will cause adjustments to be sought and agreed upon in a timely period so that the original timelines and costs estimates are realized.

10.5. The Participation Agreement (which will be executed at a later date) will govern withdrawal/removal of a Party after the completion of construction. This LA governs withdrawal/removal until and unless it is superceded by another agreement.

11. Project Work in Progress:

11.1. PG&E and Western are performing or have performed work for the benefit of the Project. Western's costs incurred, as the Project Manager, will be credited towards Western's share in the Project. PG&E's costs incurred which are not related to the Substation modifications or the 230-kV line reinforcement but that benefit and are used by the Project shall be reimbursed provided that the Parties approve the reimbursement and the Project proceeds to construction. Such reimbursement shall occur regardless of whether PG&E remains a Project Participant and shall be made no later than commercial operation of the Project.

12. Confidentiality of Market Sensitive Information:

12.1. The Participants shall maintain the confidentiality of all the documents, data, and any other information provided to them by any other Participant containing market sensitive information, where such document, data or other information is designated as confidential by individual Participants and shown to contain market sensitive information. Such information must be clearly marked confidential. Provided, however, that the information will not be held confidential by the receiving Participant if (a) the designating Participant is required to provide such information for public disclosure or (b) the information becomes available to the public on a non-confidential basis (other than from the receiving Party).

12.2. Disclosure of Confidential Information: Notwithstanding the above, if any Party is required by applicable laws or regulations, or in the course of administrative or judicial proceedings, to disclose information that is otherwise required to be maintained in confidence, the Participant may disclose such information; provided, that as soon as such Participant learns of the disclosure requirement and prior to making such disclosure, such Participant shall notify the affected Participant(s) of the requirement and the terms thereof. The affected Participant(s) may, at its sole

discretion and own costs, direct any challenge to or defense against the disclosure requirement and the disclosing Participant shall cooperate with such affected Participant to the maximum extent practicable to minimize the disclosure of the information consistent with applicable law. The disclosing Participant shall cooperate with the affected Participant to obtain proprietary or confidential treatment of confidential information by the person to whom such information is disclosed prior to any such disclosure.

13. Intent of Parties

13.1. This LA constitutes a statement of the present intentions of the Parties and is preliminary and is intended to set forth certain basic terms of understanding reached to date and to serve as a basis for further discussions and negotiations between the Parties with respect to the Project. This LA does not contain all matters upon which agreement must be reached in order for the Project to be completed. Future binding agreement will arise only upon the negotiation, execution and delivery of mutually satisfactory Participation Agreement and the satisfaction of the conditions set forth therein, including the approval of such agreements. If a Participant does not participate in the formulation of the necessary agreements or fails to execute the agreements in a timely manner, Western, at its sole discretion may remove that entity from further participation in the Project.

14. Provisions Required by Law

14.1. Covenant Against Contingent Fees: PG&E and Trans-Elect warrant that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by their respective organizations for the purpose of securing

business. For breach or violation of this warranty, Western shall have the right to annul this LA without liability or in its discretion to deduct from the price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

14.2. Contingent Upon Appropriations: Where activities provided for in the LA extend beyond the current fiscal year, continued expenditures by the United States are contingent upon Congress making the necessary appropriations required for the continued performance of the United States obligations under the LA. In case such appropriation is not made, PG&E and Trans-Elect hereby releases the United States from its obligations and from all liability due to the failure of Congress to make such appropriation.

14.3. Contract Work Hours and Safety Standards: The LA, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act, 40 U.S.C.A. § 329, is subject to the provisions of the Act, 40 U.S.C.A. §§ 327-333, and to regulations promulgated by the Secretary of Labor pursuant to the Act.

14.4. Equal Opportunity Employment Practices: Section 202 of Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), which provides, among other things, that PG&E and Trans-Elect will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, is incorporated by reference in the contract.

14.5. Use of Convict Labor: PG&E and Trans-Elect agree not to employ any person undergoing sentence of imprisonment in performing the LA except as provided by 18 U.S.C. 4082 (c) (2) and Executive Order 11755, December 29, 1973.

15. Signature Clause:

The signatories to this LA represent that they are authorized to enter into this LA on behalf of the Party for whom they sign. This LA may be executed in counterparts. This LA is executed this 25th day of April 2002.

Executed: April 25, 2002

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PACIFIC GAS & ELECTRIC COMPANY

By:_____

Name:_____

Title:_____

Date:_____

WESTERN AREA POWER ADMINISTRATION

By:_____

Name:_____

Title:_____

Date:_____

TRANS-ELECT

By:_____

Name:_____

Title:_____

Date:_____

Exhibit A:**Initial Allocation of ENTITLEMENT AND TSR**

COMPANY	ALLOCATION	CAPACITY
	%	MW ¹
Trans-Elect	72.00%	1080
PG&E	18.00%	270
Western	10.00%	150
Total	100.00%	1500

¹Based on an estimate of 1500 MW.

Executed: April 25, 2002

Exhibit B:**Summary Estimate of Participant's Project Costs**

COMPANY	DOLLAR INVESTMENT \$ Millions	FACILITY OWNERSHIP %	PHYSICAL OWNERSHIP OF FACILITY
Trans-Elect	\$249.60		
PG&E	\$55.07	100.0%	Substations
Western	\$1.33	100.0%	Land/T-line
Total	\$306.00		

Executed: April 25, 2002

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Exhibit C:
Project Cost Estimates

Executed: April 25, 2002

Exhibit D:

Payment Instructions

1. Pursuant to the Contributed Funds Act, 43 U.S.C. §§ 395, 397A, Trans-Elect is providing the Initial Funds for the purposes described in the LA.
2. Western will provide Trans-Elect with its federal account numbers where the Initial Fund shall be wired.
3. Trans Elect will wire the Initial Fund (\$1,500,000) to an account number provided by Western.

Executed: April 25, 2002